

BILL NO. A=76-06= 0/

APPROPRIATION ORDINANCE NO. A-26-76.

AN ORDINANCE HIRING A LEGAL RESEARCH ASSISTANT FOR THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA IN A GRANT OF FRANCHISE TO OPERATE A CABLE COMMUNICATIONS SYSTEM AND FOR REGULATION THEREOF, AND APPROPRIATING FUNDS FROM THE GENERAL FUND TO PAY FOR PART TIME SERVICES.

WHEREAS, there has been introduced in the Common Council of the City of Fort Wayne, Indiana Bill No. G-76-05-08 providing for the grant of a franchise to operate a Cable Communication Systems in the City of Fort Wayne and providing for regulation of said system; and

WHEREAS, over the past two and one-half years (2-1/2) years the Common Council of the City of Fort Wayne has been working with David Tanner, who has developed most of the information and data which was necessary to bring about a Cable Communication Systems and the franchising thereof by the Common Council of the City of Fort Wayne, Indiana; and

WHEREAS, the Common Council of the City of Fort Wayne, Indiana is the franchising authority for Cable Communication Systems; and

WHEREAS, it is necessary to continue the services of said David Tanner as a part time Cable Communication Systems consultant to said Common Council to perform legal research work for said Common Council of the City of Fort Wayne, Indiana on any changes, modifications, deletions and additions to said present Bill in committee of said Common Council and to assist said Common Council in any way necessary finalizing said Bill into an Ordinance.

NOW THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. Pursuant to IC 18-2-3.5-1, David Tanner is hereby hired on a part time basis to work with and for the Common Council of the City of Fort Wayne, Indiana as a legal research assistant incident to franchising of Cable Television in the City of Fort Wayne, Indiana and to do any and all things necessary to complete the work of implementing said Bill G-76-05-08 and/or any modifications or substitutions thereof.


SECTION 2. The salary for said position shall be One Hundred Dollars (\$100.00) per week.

SECTION 3. Said position shall terminate as determined by the Common Council of the City of Fort Wayne, Indiana. Said Common Council may terminate the employment of said David Tanner at anytime on thirty days written notice to said David Tanner.

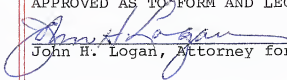
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3 SECTION 4. There is hereby transferred from the
4 unappropriated and unexpended balance of the 1976 General Fund
5 (Account No. 10) the sum of Three Thousand Dollars (\$3,000)
6 to Account No. 10-650-1-11 Salaries Regular in the 1976
7 Budget of the City Clerk of the City of Fort Wayne, Indiana.

8 SECTION 5. The unappropriated and unexpended balance
9 of the General Fund is reduced in the amount of Three
10 Thousand Dollars (\$3,000).

11 SECTION 6. This Ordinance shall be in full force and
12 effect from and after its passage, approval by the Mayor
13 and legal publication thereof.

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Councilman

APPROVED AS TO FORM AND LEGALITY


John H. Logan, Attorney for Common Council.

Read the first time in full and on motion by C. Schmidt, seconded by Talarico, and duly adopted; read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on Tues the 22nd day of June, 1976, at 7:30 o'clock P.M., E.S.T.

Date: 6-8-76

Charles W. Westerman
CITY CLERK

Read the third time in full and on motion by Henry, seconded by Talarico, and duly adopted, placed on its passage. Passed (lost) by the following 25 vote needed to override the Mayor's Veto
Yes

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT
TOTAL VOTES	<u>5</u>	<u>3</u>		<u>1</u>	
BURNS		<u>✓</u>			
HINGA	<u>✓</u>				
HUNTER		<u>✓</u>			
MOSES	<u>✓</u>				
NUCKOLS	<u>✓</u>				
SCHMIDT, D.		<u>✓</u>			
SCHMIDT, V.				<u>A</u>	
STIER	<u>✓</u>				
TALARICO	<u>✓</u>				

DATE: 7/13/76

Charles W. Westerman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. A-26-76 on the 13th day of July, 1976.

ATTEST: (SEAL)

Charles W. Westerman
CITY CLERK

James Stier
PRESIDENT OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th day of July, 1976, at the hour of 11:30 o'clock A. M., E.S.T.

Witnessed by Mayor

Charles W. Westerman
CITY CLERK

Approved and signed by me this 14th day of July, 1976, at the hour of 11:30 o'clock A. M., E.S.T.

Witnessed by Mayor
Charles W. Westerman
MAYOR

Read the first time in full and on motion by _____, seconded by _____, and duly adopted, read the second time by title and referred to the Committee on _____ (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the day of _____, 1976, at _____ o'clock P.M., E.S.T.

DATE: _____

CITY CLERK

Read the third time in full and on motion by Tolsonis,

seconded by Hinga, and duly adopted, placed on its passage.

PASSED ~~(UNANIMOUSLY)~~ by the following ^{2/3 vote to override the Mayor's veto} vote:

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
BURNS	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINGA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HUNTER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MOSES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NUCKOLS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SCHMIDT, D.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SCHIMDT, V.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
STIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TALARICO	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATE: 7-27-76

CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION)

ORDINANCE (RESOLUTION) No. 9-26-76 on the 27th day of July, 1976.

ATTEST:

(SEAL)

CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 1976, at the hour of _____ o'clock _____ M., E.S.T.

CITY CLERK

Approved and signed by me this _____ day of _____, 1976, at the hour of _____ o'clock _____ M., E.S.T.

Passed by at 2/3 vote needed to override Mayor's veto. — MAYOR

Bill No. A-76-06-01

REPORT OF THE COMMITTEE ON FINANCE

We, your Committee on Finance to whom was referred an Ordinance
hiring a legal research assistant for the Common Council of the City of Fort
Wayne, Indiana in a grant of Franchise to operate a Cable Communications System
and for regulation thereof, and appropriating funds from the General Fund to
pay for part time services

*Amended (Section #5 to read "100" per week
for balance of year after legal
passing of ordinance)*

have had said Ordinance under consideration and beg leave to report back to the Common
Council that said Ordinance also PASS.

Vivian G. Schmidt - Chairman

William T. Hinga - Vice-Chairman

Winfield C. Moses, Jr.

John Nuckols

Samuel J. Talarico

Vivian G. Schmidt
William T. Hinga
Winfield C. Moses Jr
John Nuckols
Samuel J. Talarico

DATE 7-13-76 CONCURRED
CHARLES W. HERRIN

NOTICE TO TAXPAYERS OF
ADDITIONAL APPROPRIATIONS

Notice is hereby given to the taxpayers of the City of Fort Wayne, Allen County, Indiana, that the Common Council of said Municipality will, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on Tuesday, the 22nd day of June, 19 76 at 7:30 P.M. o'clock, Eastern Standard Time, consider the following additional appropriations which said Council considers necessary to meet an extraordinary emergency existing at this time.

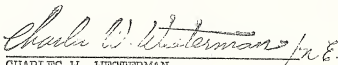
BILL NO.
A-76-06-01

There is hereby transferred from the unappropriated and unexpended balance of the 1976 General Fund (Account No. 10) the sum of Three Thousand Dollars (\$3,000) to Account No. 10-650-1-11 Salaries Regular in the 1976 Budget of the City Clerk of the City of Fort Wayne, Indiana.

The unappropriated and unexpended balance of the General Fund is reduced in the amount of Three Thousand Dollars (\$3,000).

There has been introduced in the Common Council of the City of Fort Wayne, Indiana Bill No. G-76-05-08 providing for the grant of a franchise to operate A Cable Communication Systems, and over the past two and one-half years (2-½) years the Common Council of the City of Fort Wayne has been working with David Tanner who has developed most of the information and data which was necessary to bring about a Cable Communication Systems and the franchising thereof by the Common Council of Fort Wayne, Indiana. It is necessary to continue the services of said David Tanner as a part time Cable Communication Systems consultant to said Common Council to perform research work for the Common Council of Fort Wayne, Indiana.

Taxpayers appearing at such meeting shall have a right to be heard thereon. The additional appropriation, as finally made, will be automatically referred to the State Board of Tax Commissioners, which Commission will hold a further hearing within fifteen days at the County Auditor's Office of Allen County, Indiana, or at such other place as may be designated. At such hearing, taxpayers objection to any of such additional appropriations may be heard and interested taxpayers may inquire of the County Auditor when and where such hearing will be held.


CHARLES W. WESTERMAN
CITY CLERK

EMERGENCY APPROPRIATION ORDINANCE

WHEREAS, certain extraordinary emergencies have developed since the adoption of the existing annual budget, so that it is now necessary to appropriate more money than was appropriated in the annual budget; now, therefore, to meet such extraordinary emergencies:

Sec. 1 Be it ordained by the Common Council of the City of Fort Wayne, Allen County, Indiana, that for the expenses of said municipal corporation the following additional sums of money are hereby appropriated and ordered set apart out of the several funds herein named and for the purposes herein specified, subject to the laws governing the same:

	<u>A-26-76</u>	AMOUNT REQUESTED	AMOUNT APPROPRIATED
BILL NO.	A-76-06-01	\$ 3,000.00	\$ 3,000.00

There is hereby transferred from the unappropriated and unexpended balance of the 1976 General Fund (Account No. 10) the sum of (\$3,000.00) to Account No. 10-650-1-11 Salaries Regular in the 1976 Budget of the City Clerk of the City of Fort Wayne, Indiana.

AUDITOR'S OFFICE
FILED
JUL 28 1976

Jan D. Hebelster
AUDITOR OF ALLEN COUNTY

	<u>A-26-76</u>	AMOUNT REQUESTED	AMOUNT APPROPRIATED
BILL NO.	A-76-06-01	\$ 3,000.00	\$ 3,000.00

The unappropriated and unexpended balance of the General Fund is reduced in the amount of (\$3,000.00)

David Tanner has been working with Council for 2½ years to bring about a Cable Communication Systems and franchising, and it is necessary to continue the services of David Tanner as a part time consultant for the Cable Systems--for changes, modifications, and deletions and additions to present bill no. G-76-05-08

Adopted this 27th day of July, 1976.

AYES

NAYS

Paul M. Burns

Vivian G. Schmidt
Vivian G. Schmidt

Samuel J. Talarico
Samuel J. Talarico

John Nuckols
John Nuckols

Donald J. Schmidt
Donald J. Schmidt

William T. Hinga
William T. Hinga

Fredrick R. Hunter
Fredrick R. Hunter

Winfield C. Moses, Jr.
Winfield C. Moses, Jr.

James S. Stier
James S. Stier

ATTEST:

Charles W. Westerman
Charles W. Westerman
City Clerk



CITY OF FORT WAYNE
910 LINCOLN BANK TOWER
FORT WAYNE, INDIANA 46802

JOHN H. LOGAN
COMMON COUNCIL ATTORNEY
AND RESEARCH ANALYST

August 18, 1976

State Board of Tax Commissioners
Room 201, State Office Building
Indianapolis, Indiana 46204

Attention: Mr. Thomas A. Edward
Director of Field Representatives

Dear Mr. Edward:

Mr. James Craft of your office has questioned the legality of passage by the Common Council of the City of Fort Wayne, of Appropriation Ordinance No. A-26-76.

The main thrust of Mr. Craft's argument is that Council did not pass the Ordinance by a two-third (2/3) vote of all its members elect. Mr. Craft has advised me to write you my response.

As Attorney for the Common Council, my response to Mr. Craft's position is that Council did in fact, pass the ordinance by a two-third (2/3) vote of all its members elect.

A review of the vote sheets (copies attached hereto as Exhibits A and B) show:

1. On July 13, 1976, Council by a vote of 5 Ayes and 3 Nays, one member being absent, passed the Ordinance which was presented to the Mayor on July 14, 1976. (Exhibit A)
2. On July 20, the Mayor signed his Veto Message of the Ordinance and returned the Ordinance to Council. (Copy attached as Exhibit C)
3. On July 27, 1976, Council did, in fact, pass the Ordinance by a vote of 6 Ayes and 2 Nays. One Council member was absent from this meeting. (Exhibit B)



THE CITY OF FORT WAYNE
910 lincoln bank tower
fort wayne, Indiana 46802

State Board of Tax Commissioners
Room 201, State Office Building
Indianapolis, Indiana 46204

Attention: Mr. Thomas A. Edward
Director of Field Representatives

August 18, 1976

That Council did, in fact, pass the Ordinance and not merely override the Mayor's veto is evident from reading the State Law IC 18-1-3-6 which provides as follows: "and in all cases of disapproval by the Mayor, such ordinance shall not become a law unless at its next regular or special meeting after the time named for the Mayor's action, the Council shall again pass the same by a two-third (2/3) vote of all the members elect. All ordinances shall, within a reasonable time after their approval by the Mayor of their passage over his veto, be recorded in a book kept for that purpose by the City Clerk." "Such record shall include the signature of the presiding officer, the attestation of the clerk and the mayor's written approval or disapproval, and, in the latter case, a memorandum of the passage of the ordinance over the veto, with the date of such acts. Such record, or a certified copy thereof, shall be presumptive evidence of the passage and going into effect of such ordinance."

Please note that in case of disapproval by the Mayor, the Council is again considering the Ordinance itself, not the Mayor's veto and votes on the Ordinance. Thus, it is clear that at its regular meeting of July 27, 1976, Council did pass the Ordinance by a two-third (2/3) vote of all the members elect.

Nothing in the Mayor's Veto Message is of significance to Mr. Craft's position in stating that we do not have a legal Ordinance. However, I understand that at a later meeting with Mr. Craft, of which I was unaware until hearing about it after the fact, some stress was placed by members of the Executive Branch of the City of Fort Wayne, that because Mr. Tanner was not an Attorney, nor a qualified research assistant, he could not have been hired by Council.

According to IC 18-2-3.5-1, the Common Council is not only authorized to hire competent attorneys but it may also hire legal research assistants. Mr. Tanner's position has been one of conferring with the Federal agencies involved with the citizenry of Ft. Wayne, consisting of representatives of the educational institutions, the churches, public charities and in fact finding and public bodies. The Ordinance itself is a product not only of his research but also the product of legal checking by the former City Attorney, by the present City Attorney and by me, as Council Attorney. As above shown, I enclose my opinion given to the President of the Common Council on the matter of Common Council's exclusive right as franchising agency marked as Exhibit D hereto.

Having worked with David Tanner for more than two years in his research, study and hearings of citizen input from various committees into the Ordinance, Council is in the best position to know why he should be in charge of completing the hearings and finding the facts not as a lawyer, but as a legal research assistant to the Common Council, aiding in its fact finding which is necessary to a good Cable TV Ordinance. Council being the exclusive franchising authority

State Board of Tax Commissioners
Attention of Mr. Thomas A. Edward

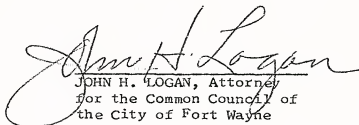
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August 18, 1976

for Cable TV, desired the best set-up for Cable it could get. The responsibility clearly rested with it for franchising and not with the Mayor. The law is clear on this point. (See Exhibit D hereto attached)

Please let us hear from your office on this very important matter. If you desire, I will be glad to come to your office for further conferences.

Respectfully submitted,


JOHN H. LOGAN, Attorney
for the Common Council of
the City of Fort Wayne

JHL:gs

Enc.

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3 BILL NO. A=76=06= 0/

4 APPROPRIATION ORDINANCE NO. A-26-76.

5 AN ORDINANCE HIRING A LEGAL RESEARCH
6 ASSISTANT FOR THE COMMON COUNCIL OF
7 THE CITY OF FORT WAYNE, INDIANA IN
8 A GRANT OF FRANCHISE TO OPERATE A
9 CABLE COMMUNICATIONS SYSTEM AND
FOR REGULATION THEREOF, AND APPRO
PRIATING FUNDS FROM THE GENERAL FUND
TO PAY FOR PART TIME SERVICES.

10 WHEREAS, there has been introduced in the Common Council
11 of the City of Fort Wayne, Indiana Bill No. G-76-05-08 providing
12 for the grant of a franchise to operate a Cable Communication
Systems in the City of Fort Wayne and providing for regulation
of said system; and

13 WHEREAS, over the past two and one-half years (2-1/2)
14 years the Common Council of the City of Fort Wayne has been
15 working with David Tanner, who has developed most of the
information and data which was necessary to bring about a
Cable Communication Systems and the franchising thereof by
the Common Council of the City of Fort Wayne, Indiana; and

16 WHEREAS, the Common Council of the City of Fort Wayne,
17 Indiana is the franchising authority for Cable Communication
Systems; and

18 WHEREAS, it is necessary to continue the services of
19 said David Tanner as a part time Cable Communication Systems
20 consultant to said Common Council to perform legal research
work for said Common Council of the City of Fort Wayne, Indiana
on any changes, modifications, deletions and additions to said
21 present Bill in committee of said Common Council and to
assist said Common Council in any way necessary finalizing said
22 Bill into an Ordinance.

23 NOW THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF
24 THE CITY OF FORT WAYNE, INDIANA:

25 SECTION 1. Pursuant to IC 18-2-3.5-1, David Tanner
26 is hereby hired on a part time basis to work with and for the
Common Council of the City of Fort Wayne, Indiana as a legal
research assistant incident to franchising of Cable Television
in the City of Fort Wayne, Indiana and to do any and all
27 things necessary to complete the work of implementing said Bill
G-76-05-08 and/or any modifications or substitutions thereof.

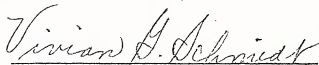
28 SECTION 2. The salary for said position shall be
29 One Hundred Dollars (\$100.00) per week.

30 SECTION 3. Said position shall terminate as determined
31 by the Common Council of the City of Fort Wayne, Indiana. Said
Common Council may terminate the employment of said David
32 Tanner at anytime on thirty days written notice to said David
33 Tanner.
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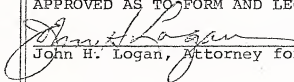
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3 SECTION 4. There is hereby transferred from the
4 unappropriated and unexpended balance of the 1976 General Fund
5 (Account No. 10) the sum of Three Thousand Dollars (\$3,000).
6 to Account No. 10-650-1-11 Salaries Regular in the 1976
7 Budget of the City Clerk of the City of Fort Wayne, Indiana.

8 SECTION 5. The unappropriated and unexpended balance
9 of the General Fund is reduced in the amount of Three
10 Thousand Dollars (\$3,000).

11 SECTION 6. This Ordinance shall be in full force and
12 effect from and after its passage, approval by the Mayor
13 and legal publication thereof.

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Councilman

APPROVED AS TO FORM AND LEGALITY


John H. Logan, Attorney for Common Council.

_____, and duly adopted, read the second time by title and referred to the Committee on _____ (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on _____, the day of _____, 1976, at _____ o'clock P.M., E.S.T.

DATE: _____

CITY CLERK

Read the third time in full and on motion by Johnis

seconded by Hings, and duly adopted, placed on its passage.

PASSED (~~UNANIMOUS~~) by the following votes:

Veto

2/3 vote to override the Mayor's

	AYES	NAYS	ABSTAINED	ABSENT	TO-WIT:
TOTAL VOTES	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BURNS	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HINGA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
HUNTER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MOSES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
NUCKOLS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SCHMIDT, D.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SCHMIDT, V.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
STIER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TALARICO	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

DATE: 7-27-76

CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION)

ORDINANCE (RESOLUTION) No. G-26-76 on the 27th day of July, 1976.

ATTEST: (SEAL)

CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 1976, at the hour of _____ o'clock _____ M., E.S.T.

CITY CLERK

Approved and signed by me this _____ day of _____, 1976, at the hour of _____ o'clock _____ M., E.S.T.

at the hour of _____ o'clock _____ M., E.S.T.

MAYOR

Passed by at 2/3 vote needed to override Mayor's Veto.

Read the first time in full and on motion by Talarico seconded by Talarico, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on Tuesday the 22nd day of June, 1976, at 7:30 o'clock P.M., E.S.T.

Date: 6-8-76

Charles W. Westerman
CITY CLERK

Read the third time in full and on motion by Alonso seconded by Alonso, and duly adopted, placed on its passage. Passed ~~(lost)~~ by the following Yea
Nays

	AYES	NAYS	ABSTAINED	ABSENT	TO-VOTE
TOTAL VOTES	<u>5</u>	<u>3</u>		<u>1</u>	
BURNS	<u>✓</u>	<u>✓</u>			
HINGA	<u>✓</u>				
HUNTER		<u>✓</u>			
MOSES	<u>✓</u>				
NUCKOLS	<u>✓</u>				
SCHMIDT, D.		<u>✓</u>			
SCHMIDT, V.				<u>A</u>	
STIER	<u>✓</u>				
TALARICO	<u>✓</u>				

DATE: 7/13/76

Charles W. Westerman
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (Zoning Map) (General) (Annexation) (Special) (Appropriation) Ordinance (Resolution) No. A-26-76 on the 13th day of July, 1976.

ATTEST:

(SEAL)

Charles W. Westerman
CITY CLERK

James Stier
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 14th day of July, 1976, at the hour of 11:30 o'clock A. M., E.S.T.

Witnessed by me

Charles W. Westerman
CITY CLERK

Approved and signed by me this 14th day of July, 1976.

at the hour of 11:30 o'clock A. M., E.S.T.

Exhibit "A"

James Stier
PRESIDING OFFICER



FORT WAYNE, INDIANA 46802

office of the mayor

VETO MESSAGE

I, Robert E. Armstrong, Mayor of the City of Fort Wayne, hereby veto Appropriation Ordinance No. A-26-76, for the following reasons:

1. According to Indiana Code, Section 18-2-3.5-1, "The Common Council of any city is hereby empowered to hire or contract with, or on a full time or part time basis, one or more competent attorneys and/or legal research assistants on terms which the Common Council may deem appropriate."

While this section permits the Council to hire legal research assistants, I contend that Mr. Tanner is not qualified either as "a competent attorney or legal research assistant."

It is the stated intention of the Council that Mr. Tanner will be performing the same function which he performed for the Board of Works; i.e., the research and direction of the city's Cable TV project. Because of this role, and since Mr. Tanner is neither an attorney nor a qualified legal research assistant, he is, therefore, unqualified to be hired under the terms of this Statute.

2. That same Statute contains the following stipulation: "(c) The appropriation for the payment of the salaries of such attorneys and/or legal research assistants as may be employed by the Common Council may not exceed that which is appropriated for similar salaries in the budget of the City Attorney."

The Ordinance, passed by Council, is in direct conflict with this requirement of the law. Council has appropriated \$100 per week to pay Mr. Tanner, and this sum substantially exceeds the amount (\$1,600 per year) provided the City Attorney for the hiring of research assistants.

Exhibit "C"



3. Furthermore, going beyond the two direct violations of the law which would be incurred by Council were I to sign this Ordinance, I believe that the continued employment of Mr. Tanner is a waste of the taxpayers' money. After three years of working on a Cable TV Ordinance, the product of Mr. Tanner's effort is little more than a synthesis of the work of others and a synthesis which, in fact, is virtually unusable. In short, Mr. Tanner's services are neither necessary nor desired.

4. Mr. Tanner's actions in removing numerous documents and files from the Board of Works office following his dismissal must raise the question of his moral propriety. His failure to return these documents, or even to allow this Administration to discuss with him which of the files are his property and which continue to be the property of the people, leave us no recourse but to consider him undeserving of continued employment by the taxpayers.

Signed this 20th day of July, 1976.


Robert E. Armstrong
Mayor

Natka - let Dort know
when we hear from the
State Lay Commission

See attached
legal ruling by
John Logan. Common
Council attorney.

House Memorandum *Cable / V. J. Lee*

To James Stier, President Common Council Date July 14, 1976

From John H. Logan

Subject Cable Television

COPIES TO:

Reference is made to meeting of the Common Council held July 13, 1976 in which you requested my opinion as to authority of Common Council to franchise and regulate Cable Television.

There need be no citation of legal authority that the Government of the City of Fort Wayne by statute is divided into special functions, namely: Legislative (Common Council) and Executive (Mayor's office, including Department of Public Works, Department of Safety, City Controller, etc., and Clerk's Office (performing as a help to the Common Council and its other independent functions).

In rendering this opinion it is essential to consider the functioning of the Legislative and Executive branches of the City Government as regards to Number 1, Franchising Authority for Cable Television and Number 2, Regulation of Cable Television.

Accordingly, I separately render my findings as follows:

1. FRANCHISING AUTHORITY:

The Common Council of the City of Fort Wayne has the exclusive authority to franchise Cable Television. This comes under Chapter 1.5 Indiana Code. Chapter 18-1-1.5-13 paragraphs (a) and (b) provide for the power of the Common Council of the City to so franchise.

In further support of above finding see IC 18-1-1.5-17 which provides that if no method or power is provided by law for the exercise of a power, the Common Council of the City may by Ordinance provide a method or procedure for the exercise of such power and "may limit the exercise of any power in any manner not in conflict with this chapter or any other law".

Thus it seems clear that the Common Council is the franchising authority for Cable Television.

2. REGULATION.

The law of Indiana appears to require that the Common Council must reserve all regulatory functions which are legislative in nature to itself (I.C. 18-1-1.5-26) provides:

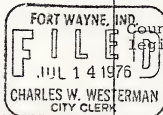


Exhibit "D"

House Memorandum

To James Stier - Page #2

Date July 14, 1976

From John H. Logan

Subject Cable Television

COPIES TO:

"The legislative power and authority of every city shall be vested in a common council. Unless otherwise provided by law, all powers and duties of a city which are legislative in nature shall be exercised and performed by the common council x x x x x x."

Thus, if the Common Council were to establish a regulatory agency the agency's power would be limited to those powers that are executive or administrative in nature, in other words the policing and endorcing of the franchise terms.


I.C. 18-1-1.5-27 provides:

"All powers and duties of a city which are executive or administrative in nature shall be exercised or performed by the mayor, the city clerk or clerk-treasurer, the departments of a city provided by statute, or by such other officers or departments as may be appointed or created by or pursuant to any statute, or by any ordinance adopted by the common council of such city which does not conflict with any other act designating or creating a particular department or agency to perform specified functions. Whenever any ordinance or resolution of the common council shall require any executive or administrative function to be performed, such function shall be performed by the proper department of the executive branch of such city, and not by the council. Such ordinance may designate the department which is to perform the duties thereunder, or may create a new department or agency for such purpose, subject to the provisions of any statute. If such designation is not made, either by statute or by ordinance or resolution, the mayor shall assign such duties to the proper department or officer."

Although it is apparent the Common Council could establish a new department or agency to monitor and enforce the franchise terms that it enacts, the agency or department would have to report to the executive branch.

If there are any other questions pertaining to this matter, please feel free to ask and I will attempt to answer them.

Respectfully submitted,


John H. Logan, Attorney for
the Common Council of the
City of Fort Wayne, Indiana.

DIGEST SHEET

9-76-06-01

TITLE OF ORDINANCE An Ordinance hiring a Legal REsearch Assistant for the Common Council in a Grant of Franchise to Operate A Cable Communications System and For Regulation Thereof and appropriating funds from General Fund

DEPARTMENT REQUESTING ORDINANCE to pay for part time services.

Common Council

SYNOPSIS OF ORDINANCE To appropriate funds to pay for part time services of Legal Research Assistant to assist Common Council in Grant of Franchise to Operate a Cable Communications System and for hiring thereof.

EFFECT OF PASSAGE Hiring of Legal Research Assistant

EFFECT OF NON-PASSAGE Not hiring Research Assistant

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) \$3000.00

ASSIGNED TO COMMITTEE (PRESIDENT) *Finance*

DIGEST SHEET

9-76-06-01

TITLE OF ORDINANCE An Ordinance hiring a Legal REsearch Assistant for the Common Council in a Grant of Franchise to Operate A Cable Communications System and For Regulation Thereof and appropriating funds from General Fund
 DEPARTMENT REQUESTING ORDINANCE to pay for part time services.

Common Council

SYNOPSIS OF ORDINANCE To appropriate funds to pay for part time services of Legal Research Assistant to assist Common Council in Grant of Franchise to Operate a Cable Communications System and for hiring thereof.

EFFECT OF PASSAGE Hiring of Legal Research Assistant

EFFECT OF NON-PASSAGE Not hiring Research Assistant

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) \$3000.00

ASSIGNED TO COMMITTEE (PRESIDENT) Finance - nk



CITY OF FORT WAYNE

FORT WAYNE, INDIANA

CHARLES W. WESTERMAN
CITY CLERK

June 9, 1976

Miss Helen Libbing
Fort Wyane Newspapers, Inc.
600 West Main Street
Fort Wayne, Indiana 46802

Dear Miss Libbing:

Please give the attached full coverage on the dates of June 11 and June 18, 1976, in both the News Sentinel and Journal Gazette.

RE: Legal Notice for Common Council
of Fort Wayne, Indiana, Public
Hearing Notice to Taxpayers of
Additional Appropriations of funds

Bill No. A-76-06-01
Hiring Research for Cable T.V.
for Common Council

Bill No. A-76-06-02
Revenue Sharing Ordinance

Please send us six (6) copies of the Publisher's Affidavit from both newspapers.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Charles W. Westerman". To the right of the signature is a small handwritten mark that appears to be "p.g."

Charles W. Westerman
City Clerk

CWW/ne
Encl: 2

FortWayne Common Council
(Governmental Unit)

To JOURNAL-GAZETTE Dr.

Allen County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) — number of equivalent lines

Head number of lines

2

Body number of lines

61

Tail number of lines

2

Total number of lines in notice

65

COMPUTATION OF CHARGES

65 lines, 1 columns wide equals 65 equivalent lines at .288¢ cents per line

\$ 18.72

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two)

2.00

TOTAL AMOUNT OF CLAIM

\$ 20.72

DATA FOR COMPUTING COST

Width of single column 11 ems

Size of type 5½ point

Number of insertions 2

Size of quad upon which type is cast 5½

Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Arvilla DeWald

CLERK

Title

PUBLISHER'S AFFIDAVIT

State of Indiana }
Allen County } ss:

Personally appeared before me, a notary public in and for said county and state, the undersigned ARVILLA DEWALD who, being duly sworn, says that she is CLERK of the

JOURNAL-GAZETTE

a DAILY newspaper of general circulation printed and published

in the English language in the city of FORT WAYNE, INDIANA

in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time 8, the dates of publication being as follows:

6/11-18/76

Subscribed and sworn to before me this 18th day of June 1976

Arvilla DeWald

Edith Stapleton

Notary Public

My commission expires March 11, 1978

COPY OF
SENT HERE

NOTICE TO TAXPAYERS OF
ADDITIONAL APPROPRIATIONS
Notice is hereby given to the taxpayers
of the City of Fort Wayne, Allen
County, Indiana, that the Common
Council of said Municipality will, at the
Council Chambers, City-County Build-
ing, Fort Wayne, Indiana, on Tuesday,
the 22nd day of June, 1976 at 2:30 P.M.
o'clock, Eastern Standard Time, con-
sider the following additional appro-
priations which said Council considers
necessary to meet an extraordinary
emergency existing at this time.

BILL NO.

A-76-6-01

There is hereby transferred from the
unappropriated and unexpended bal-
ance of the 1976 General Fund (Account
No. 10) the sum of Three Thousand
Dollars (\$3,000) to Account No. 18-608-1-
11 Salaries Regular in the 1976 Budget
of the City Clerk of the City of Fort
Wayne, Indiana.

The unappropriated and unexpended
balance of the General Fund is reduced

in the amount of Three Thousand Dol-
lars (\$3,000). There has been intro-
duced in the Common Council of the
City of Fort Wayne, Indiana Bill No. G-
76-65-08 providing for the grant of a
franchise to operate a Cable Commu-
nication Systems, and over the past two
and one-half years (2½) years the
Common Council of the City of Fort
Wayne has been working with David
Tanner who has developed most of the
information and data which was neces-
sary to bring about a Cable Commu-
nication Systems, and the franchising
thereof by the Common Council of Fort
Wayne, Indiana. It is necessary to con-
tinue the services of said David Tanner
as a part time Cable Communication
Systems consultant to said Common
Council to perform research work for
the Common Council of Fort Wayne, In-
diana.

Taxpayers appearing at such meeting
shall have a right to be heard thereon.
The additional appropriation, as finally
made, will be automatically referred to
the State Board of Tax Commissioners,
which Commission will hold a further
hearing within fifteen days of the
County Auditor's Office of Allen
County, Indiana, or at such other place
as may be designated. At such hearing,
taxpayers objection to any of such ad-
ditional appropriations may be heard
and interested taxpayers may inquire
of the County Auditor when and where
such hearing will be held.

CHARLES W. WESTERMAN
CITY CLERK

Fort Wayne Common Council
(Governmental Unit)

To JOURNAL-GAZETTE Dr.

Allen County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

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Head number of lines

Body number of lines

Tail number of lines

Total number of lines in notice

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61

2

65

COMPUTATION OF CHARGES

65 lines, 1 columns wide equals 65 equivalent lines at .288¢ cents per line

18.72

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two)

2.00

TOTAL AMOUNT OF CLAIM

20.72

DATA FOR COMPUTING COST

Width of single column 11 ems

Size of type 5½ point

Number of insertions 2

Size of quad upon which type is cast 5½

Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date June 18, 1976

Title ARILLA DE WELD CLERK

PUBLISHER'S AFFIDAVIT

State of Indiana }
ALLEN County } ss:

Personally appeared before me, a notary public in and for said county and state, the undersigned ARILLA DE WELD who, being duly sworn, says that she is CLERK of the

JOURNAL-GAZETTE

a DAILY newspaper of general circulation printed and published

in the English language in the city of FORT WAYNE, INDIANA

in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 time, the dates of publication being as follows:

6/11-18/76

Subscribed and sworn to before me this 18th day of June 1976

Notary Public

My commission expires March 11, 1978

For
12
11
AO1
V1

of the City Clerk of the City of Fort Wayne, Indiana. The unappropriated and unexpended balance of the General Fund is reduced

In the amount of Three Thousand Dollars (\$3,000). There has been introduced in the Common Council of the City of Fort Wayne, Indiana Bill No. G-76-006 providing for the grant of a franchise to operate a Cable Communication Systems, and over the past two and one-half years (2½) years the Common Council of the City of Fort Wayne has been working with David Tanner who has developed most of the information and data which was necessary to bring about a Cable Communication Systems and the franchising thereof by the Common Council of Fort Wayne, Indiana. It is necessary to continue the services of said David Tanner as a part time Cable Communication Systems consultant to said Common Council to perform research work for the Common Council of Fort Wayne, Indiana.

Taxpayers appearing at such meeting shall have a right to be heard thereon. The additional appropriation, as finally made, will be automatically referred to the State Board of Tax Commissioners, which Commission will hold a further hearing within fifteen days of the County Auditor's Office of Allen County, Indiana, or at such other place as may be designated. At such hearing, taxpayers objection to any of such additional appropriations may be heard and interested taxpayers may inquire of the County Auditor when and where such hearing will be held.

CHARLES W. WESTERMAN
CITY CLERK

Fort Wayne Common Council
(Governmental Unit)

To THE NEWS-SENTINEL

Dr.

Allen

County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set)
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Body number of lines

Tail number of lines

Total number of lines in notice

2

61

2

65

COMPUTATION OF CHARGES

.65 lines, 1 columns wide equals .65 equivalent lines at .288¢
cents per line

18.72

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two)

2.00

TOTAL AMOUNT OF CLAIM

20.72

DATA FOR COMPUTING COST

Width of single column 11 ems

Size of type 5 1/2 point

Number of insertions 2

Size of quad upon which type is cast 5 1/2

Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

NOTICE TO TAXPAYERS OF
ADDITIONAL APPROPRIATIONS
Notice is hereby given to the taxpayers
of the City of Fort Wayne, Allen
County, Indiana, that the Common
Council of said Municipality will, at the
Council Chambers, City County Build-
ing, Fort Wayne, Indiana, on Tuesday,
the 22nd day of June, 1978 at 7:30 P.M.
o'clock, Eastern Standard Time, con-
sider the following additional appro-
priations which said Council considers
necessary to meet an extraordinary
emergency existing at this time.

BILL NO.

A-76-56-01
There is hereby transferred from the
unappropriated and unexpended bal-
ance of the 1976 General Fund (Account
No. 10) the sum of Three Thousand
Dollars (\$3,000) to Account No. 10-650-1-
11 Salaries Regular in the 1976 Budget
of the City Clerk of the City of Fort
Wayne, Indiana.

The unappropriated and unexpended
balance of the General Fund is reduced
in the amount of Three Thousand Dol-
lars (\$3,000). There has been in-
troduced in the Common Council of the
City of Fort Wayne, Indiana Bill No. G-
76-65-56 providing for the grant of a
franchise to operate A Cable Commu-
nication Systems, and over the past two
and one-half years (2 1/2) years the
Common Council of the City of Fort
Wayne has been working with David
Tanner who has developed most of the
information and data which was neces-
sary to bring about a Cable Commu-
nication Systems and the franchising
thereof by the Common Council of Fort
Wayne, Indiana. It is necessary to con-
tinue the services of said David Tanner
as a part time Cable Communication
Systems consultant to said Common
Council to perform research work for
the Common Council of Fort Wayne, In-
diana.

Taxpayers appearing at such meeting
shall have a right to be heard thereon.
The additional appropriation, as finally
made, will be automatically referred to
the State Board of Tax Commissioners,
which Commission will hold a further
hearing within fifteen days at the
County Auditor's Office of Allen
County, Indiana, or at such other place
as may be designated. At such hearing,
taxpayers objection to any of such ad-
ditional appropriations may be heard
and interested taxpayers may inquire
of the County Auditor when and where
such hearing will be held.

CHARLES W. WESTERMAN
CITY CLERK

19 76

Title CLERK

PUBLISHER'S AFFIDAVIT

State of Indiana }
Allen County } as:

Personally appeared before me, a notary public in and for said county and state, the undersigned V.E. GERKEN who, being duly sworn, says that she is CLERK

NEWS-SENTINEL

a DAILY newspaper of general circulation printed and published

COPY OF
MENT HERE

in the English language in the city of FORT WAYNE, INDIANA

in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 times, the dates of publication being as follows:

6/11-18/76

Subscribed and sworn to before me this 18th day of June 19 76

My commission expires March 11, 1978

Notary Public

Fort Wayne Common Council
(Governmental Unit)

To THE NEWS-SENTINEL Dr.

Allen County, Ind.

FORT WAYNE, INDIANA

PUBLISHER'S CLAIM

LINE COUNT

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Body number of lines

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Total number of lines in notice

65

COMPUTATION OF CHARGES

65 lines, 1 columns wide equals 65 equivalent lines at .288¢
cents per line

\$ 18.72

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two)

2.00

TOTAL AMOUNT OF CLAIM

\$ 20.72

DATA FOR COMPUTING COST

Width of single column 11 ems

Size of type 5½ point

Number of insertions 2

Size of quad upon which type is cast 5½

Pursuant to the provision and penalties of Ch. 89, Acts 1967,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

Date June 18, 1976

Title CLERK

PUBLISHER'S AFFIDAVIT

State of Indiana }
Allen County } ss:

Personally appeared before me, a notary public in and for said county and state, the undersigned V. E. GERKEN who, being duly sworn, says that she is CLERK of the

NEWS-SENTINEL

a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for 2 times, the dates of publication being as follows:

6/11-18/76

Subscribed and sworn to before me this 18th day of June 1976

Notary Public

My commission expires March 11, 1978

TOOL
3/8" AIR IMP
Powerful

Dollars (\$3,000) to Account No. 10-650-1-11 Salaries Regular in the 1976 Budget of the City Clerk of the City of Fort Wayne, Indiana.

The unappropriated and unexpended balance of the General Fund is reduced in the amount of Three Thousand Dollars (\$3,000). There has been introduced in the Common Council of the City of Fort Wayne, Indiana Bill No. G-76-58 providing for the grant of a franchise to operate a Cable Communication Systems, and over the past two and one-half years (2½) years the Common Council of the City of Fort Wayne has been working with David Tanner who has developed most of the information and data which was necessary to bring about a Cable Communication Systems and the franchising thereof by the Common Council of Fort Wayne, Indiana. It is necessary to continue the services of said David Tanner as a part time Cable Communication Systems consultant to said Common Council to perform research work for the Common Council of Fort Wayne, Indiana.

Taxpayers appearing at such meeting shall have a right to be heard thereon. The additional appropriation, as finally made, will be automatically referred to the State Board of Tax Commissioners, which Commission will hold a further hearing within fifteen days of the County Auditor's Office of Allen County, Indiana, or at such other place as may be designated. At such hearing, taxpayers objection to any of such additional appropriations may be heard and interested taxpayers may inquire of the County Auditor when and where such hearing will be held.

CHARLES W. WESTERMAN
CITY CLERK